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Decision date: 3 May 2024

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACTS
DEVELOPMENT MANAGEMENT PROCEDURE (SCOTLAND) REGULATIONS 2013**

Use of flat for short-term let use (Sui Generis) and residential flat (in retrospect). The property is available 12 months a year for letting.
At 1F1 37A St Leonard's Street Edinburgh EH8 9QN

Application No: 23/06462/FULSTL

DECISION NOTICE

With reference to your application for Planning Permission STL registered on 24 October 2023, this has been decided by **Local Delegated Decision**. The Council in exercise of its powers under the Town and Country Planning (Scotland) Acts and regulations, now determines the application as **Refused** in accordance with the particulars given in the application.

Any condition(s) attached to this consent, with reasons for imposing them, or reasons for refusal, are shown below;

Reason for Refusal:-

1. The proposal is contrary to Local Development Plan Policy Hou 7 in respect of Inappropriate Uses in Residential Areas, as the use of this dwelling as a short term let will have a materially detrimental effect on the living conditions and amenity of nearby residents.
2. The proposal is contrary to National Planning Framework Policy 30(e) in respect of Local Amenity and Loss of Residential Accommodation, as the use of this dwelling

as a short term let will result in an adverse impact on local amenity and the loss of a residential property that has not been justified.

Please see the guidance notes on our [decision page](#) for further information, including how to appeal or review your decision.

Drawings 01, 02, represent the determined scheme. Full details of the application can be found on the [Planning and Building Standards Online Services](#)

The reason why the Council made this decision is as follows:

The proposal complies with section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as it will preserve or enhance the character or appearance of the conservation area.

The change of use of this property to a Short Term Let (STL) will result in a loss of the residential accommodation and a negative impact to neighbouring amenity. Whilst it is recognised that there is an economic benefit to the City as a whole from the provision of visitor accommodation in this case it does not outweigh the loss of residential accommodation or the impact to neighbouring amenity. The proposal does not comply with Development Plan policy NPF4 policy 30(e) and LDP plan policy Hou 7. There are no material considerations that outweigh this conclusion. The proposal is unacceptable.

This determination does not carry with it any necessary consent or approval for the proposed development under other statutory enactments.

Should you have a specific enquiry regarding this decision please contact James Armstrong directly at james.armstrong@edinburgh.gov.uk.



Chief Planning Officer
PLACE
The City of Edinburgh Council

NOTES

1. If the applicant is aggrieved by the decision to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may require the planning authority to review the case under section 43A of the Town and Country Planning (Scotland) Act 1997 within three months beginning with the date of this notice. The Notice of Review can be made online at www.eplanning.scot or forms can be downloaded from that website. Paper forms should be addressed to the City of Edinburgh Planning Local Review Body, G.2, Waverley Court, 4 East Market Street, Edinburgh, EH8 8BG. For enquiries about the Local Review Body, please email localreviewbody@edinburgh.gov.uk.

2. If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land accordance with Part 5 of the Town and Country Planning (Scotland) Act 1997.

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Report of Handling

**Application for Planning Permission STL
1F1 37A St Leonard's Street, Edinburgh, EH8 9QN**

Proposal: Use of flat for short-term let use (Sui Generis) and residential flat (in retrospect). The property is available 12 months a year for letting.

**Item – Local Delegated Decision
Application Number – 23/06462/FULSTL
Ward – B15 - Southside/Newington**

Recommendation

It is recommended that this application be **Refused** subject to the details below.

Summary

The proposal complies with section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as it will preserve or enhance the character or appearance of the conservation area.

The change of use of this property to a Short Term Let (STL) will result in a loss of the residential accommodation and a negative impact to neighbouring amenity. Whilst it is recognised that there is an economic benefit to the City as a whole from the provision of visitor accommodation in this case it does not outweigh the loss of residential accommodation or the impact to neighbouring amenity. The proposal does not comply with Development Plan policy NPF4 policy 30(e) and LDP plan policy Hou 7. There are no material considerations that outweigh this conclusion. The proposal is unacceptable.

SECTION A – Application Background

Site Description

The application site is a first floor two bedroom flat located on the western side of St Leonard's Street accessed from within a pend which links St Leonard's Street with Hamiltons Folly Mews. The property shares its access to the street via a communal stairwell.

St Leonard's Street is of predominantly residential character, however there are a number of commercial uses in the immediate proximity of the application site, including

a public house approximately 30m away, and a restaurant located at the ground floor of the building that the flat is located within. The mix of uses in proximity to the application site, and the extent of passing pedestrian and vehicular traffic passing the application property results in the area featuring a moderate degree of activity during both the day and night. Public Transport links are accessible from the site.

The application property is in the Southside Conservation Area.

Description Of The Proposal

The application is for the retrospective change of use of the property from a flatted dwelling to short term let (sui generis) (STL). No internal or external physical changes are proposed. The applicant indicates on the application form that the operation of the property as a short stay let commenced on 01/01/2023.

Relevant Site History

No relevant site history.

Other Relevant Site History

No other relevant site history was identified.

Consultation Engagement

No consultations.

Publicity and Public Engagement

Date of Neighbour Notification: 3 May 2024

Date of Advertisement: 24 November 2023

Date of Site Notice: 24 November 2023

Number of Contributors: 4

Section B - Assessment

Determining Issues

Due to the proposed development falling within a conservation area, this report will first consider the proposals in terms of Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997:

- Is there a strong presumption against granting planning permission due to the development conflicting with the objective of preserving or enhancing the character or appearance of the conservation area?
- If the strong presumption against granting planning permission is engaged, are there any significant public interest advantages of the development which can only be delivered at the scheme's proposed location that are sufficient to outweigh it?

This report will then consider the proposed development under Sections 24, 25 and 37 of the Town and Country Planning (Scotland) Act 1997 (the 1997 Act):

Having regard to the legal requirement of Section 24(3), in the event of any policy incompatibility between National Planning Framework 4 (NPF4) & Edinburgh Local Development Plan 2016 (LDP) the newer policy shall prevail.

Do the proposals comply with the development plan?

If the proposals do comply with the development plan, are there any compelling material considerations for not approving them?

If the proposals do not comply with the development plan, are there any compelling material considerations for approving them?

In the assessment of material considerations this report will consider:

- equalities and human rights;
- public representations; and
- any other identified material considerations.

Assessment

a) The proposals harm the character or appearance of the conservation area?

Section 64(1) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 states:

"In exercise, with respect to any buildings or other land in a conservation area, of any powers under any of the provisions in subsection (2), special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area."

The South Side Conservation Area Character Appraisal emphasises the harmonious scale, massing and materials and the significance of key institutional buildings within the area.

As stated previously, there are no external changes proposed. The change of use will not impact on the character or appearance of the conservation area.

Conclusion in relation to the conservation area

The proposals comply with Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

b) The proposals comply with the development plan?

National Planning Framework 4 (NPF4) was adopted by the Scottish Ministers on 13 February 2023 and forms part of the Council's Development Plan. NPF4 policies supports the planning and delivery of Sustainable Places, Liveable Places and Productive Places and are the key policies against which proposals for development are assessed. Several policies in the Edinburgh Local Development Plan (LDP) are superseded by equivalent and alternative policies within NPF4.

The relevant NPF4 and LDP 2016 policies to be considered are:

- NPF4 Sustainable Places Tackling the climate and nature crises Policy 1.
- NPF4 Productive Places Tourism Policy 30.
- NPF4 Historic Assets and Places Policy 7.
- Local Development Plan Housing Policy, Hou 7.
- Local Development Plan Transport Policies, Tra 2 and Tra 3

The non-statutory Listed Building and Conservation Area Guidance is a material consideration when considering NPF 4 Policy 7.

The non-statutory Guidance for Business (2024) is a material consideration that is relevant when considering LDP Policy Hou 7 and NPF4 policy 30.

The Edinburgh Design Guidance is a material consideration when considering LDP Policies Tra 2 and Tra 3.

Conservation Area

There are no external or internal works proposed and as such there will not be a significant impact on historic assets and places.

The proposal complies with NPF 4 Policy 7.

Proposed Use

With regards to NPF 4 Policy 1, the proposed change of use does not involve operational development resulting in physical changes to the property. The proposals will have a negligible impact on the global climate and nature crisis.

NPF 4 Policy 30 seeks to encourage, promote and facilitate sustainable tourism development which benefits local people, is consistent with our net zero and nature commitments, and inspires people to visit Scotland. Criterion 30 (e) specifically relate to STL proposals.

LDP Policy Hou 7 (Inappropriate Uses in Residential Areas), seeks to protect residential amenity.

The non-statutory Guidance for Businesses (2024) states that an assessment of a change of use of dwellings to a short term let will have regard to:

- The character of the new use and of the wider area;
- The size of the property;
- The pattern of activity associated with the use including numbers of occupants, the period of use, issues of noise, disturbance and parking demand and
- The nature and character of any services provided.

Amenity

The use of this property as an STL would introduce an increased frequency of movement to the property through the shared stair, enabling visitors to arrive and stay at the premises for a short period of time on a regular basis throughout the year in a manner dissimilar to that of permanent residents. There is no guarantee that guests

would not come and go frequently throughout the day and night, and transient visitors may have less regard for neighbours' amenity than individuals using the property as a principal home.

Whilst the proposed use is unlikely to result in an unacceptable impact to the amenity of individuals living in the wider area, the noise generated by the proposed use would be significantly different from the ambient background noise that neighbouring residents living within the building might reasonably expect, and consequently will have a significant detrimental effect on their living conditions and amenity. There could also be a negative impact on community cohesion and residents' safety.

The additional servicing that operating a property as an STL requires compared to that of a residential use is also likely to result in an increase in disturbance, further impacting on neighbouring amenity. However, this would be of lesser impact as it is likely that servicing would be conducted during the daytime.

On balance, the proposal does not comply with NPF 4 policy 30(e) part (i) and LDP policy Hou 7.

Loss of residential accommodation

NPF 4 policy 30 (e) part (ii) requires that where there is a loss of residential accommodation, this will only be supported where the loss is outweighed by demonstrable local economic benefits.

Paragraph 220 of the LDP acknowledges that tourism is the biggest source of employment in Edinburgh, providing jobs for over 31,000 people. The use of the property by guests and the required maintenance and upkeep of STL properties are likely to result in a level of job creation and spend within the economy which can be classed as having an economic benefit.

The current lawful use of the property is for residential accommodation. Consequently, the use of the property as an STL would result the loss of this residential accommodation, which given the recognised need and demand for housing in Edinburgh it is important to retain, where appropriate.

Further, it is important to recognise that residential occupation of the property contributes to the economy, in terms of providing a home and the spend in relation to the use of the property as a home, including the use of local services and resultant employment, as well as by making contributions to the local community.

In this instance, it has not been sufficiently demonstrated that the loss of the residential accommodation is outweighed by demonstrable local economic benefits. As such, the proposal does not comply with NPF 4 30(e) part (ii).

Parking Standards

No parking is proposed. This is acceptable as it is in compliance with the Edinburgh Design Guidance.

The proposals comply with LDP Policies Tra 2 and Tra 3.

c) There are any other material considerations which must be addressed?

The following material planning considerations have been identified:

Emerging policy context

On 5 April 2024 the Planning and Environmental Appeals Division published its report into the examination of the Proposed City Plan 2030 and supporting documents in terms of Section 19 of the Town and Country Planning (Scotland) Act 1997. The Council is currently considering the recommendations and modifications required to the Proposed City Plan 2030. It is the intention that the modifications will be considered by the Council before the end of June 2024. At this time in the context of the consideration of this particular application limited weight can be given to the relevant policies of City Plan 2030 until the proposed modifications have been fully considered.

Independent economic impact assessment

An independent economic impact assessment was commissioned by the Planning Service, and this resulted in a report on the Economic Impact of Residential and Short-Term Let Properties in Edinburgh (the Economic Report). This was reported to Planning Committee on 14 June 2023. The Committee noted that the findings of the report are one source of information that can be considered when assessing the economic impacts of short-term let planning applications and that given the report is considering generalities rather than the specifics of an individual case, it is likely that only limited weight can be attached to it as a material consideration when making planning application decisions. The study considered the economic impact of various types of properties in Edinburgh if used as a residential property as opposed to being used for short-term holiday lettings.

The Economic Report shows that there are positive economic impacts from the use of properties for both residential use and short-term let use. The Report found that in general the gross value added (GVA) effects are greater for residential uses than short-term lets across all property types and all areas. However, given it is considering generalities rather than the specifics of this individual case, only limited weight can be attached to it as a material consideration in the determination of this application.

Equalities and human rights

Due regard has been given to section 149 of the Equalities Act 2010. No impacts have been identified.

Consideration has been given to human rights. No impacts have been identified through the assessment and no comments have been received in relation to human rights.

Public representations

Four public comments in objection to the application were received, one of these was an objection from the Southside Community Council. A summary of the issues raised is included below:

Material Considerations

- Negative impact to neighbouring amenity (noise). Assessed in Section b).
- Negative impact to neighbouring amenity (security). Assessed in Section b).
- Loss of residential accommodation. Assessed in Section b).
- Negative impact to the local community. Assessed in Section b).

Non-material Considerations

- Will result in anti-social behaviour and illegal parking. Anti-social behaviour is a matter for Police Scotland.
- Management regime will be unable to control guest behaviour acceptably and be difficult to contact.
- Application is contrary to City Plan 2030.
- Negative impact to local services (waste collection) and will result in rubbish being left in the stairwell and in the pend. The applicant would be required to arrange for commercial waste collection.

Conclusion in relation to identified material considerations

The identified material considerations have been assessed above and do not raise issues which outweigh the conclusion in relation to the development plan.

Overall conclusion

The proposal complies with section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as it will preserve or enhance the character or appearance of the conservation area.

The change of use of this property to a Short Term Let will result in a loss of the residential accommodation and a negative impact to neighbouring amenity. Whilst it is recognised that there is an economic benefit to the City as a whole from the provision of visitor accommodation in this case it does not outweigh the loss of residential accommodation or the impact to neighbouring amenity. The proposal does not comply with Development Plan policy NPF4 policy 30(e) and LDP plan policy Hou 7. There are no material considerations that outweigh this conclusion. The proposal is unacceptable.

Section C - Conditions/Reasons/Informatives

The recommendation is subject to the following;

Reason for Refusal

1. The proposal is contrary to Local Development Plan Policy Hou 7 in respect of Inappropriate Uses in Residential Areas, as the use of this dwelling as a short term let will have a materially detrimental effect on the living conditions and amenity of nearby residents.
2. The proposal is contrary to National Planning Framework Policy 30(e) in respect of Local Amenity and Loss of Residential Accommodation, as the use of this dwelling

as a short term let will result in an adverse impact on local amenity and the loss of a residential property that has not been justified.

Background Reading/External References

To view details of the application go to the [Planning Portal](#)

Further Information - [Local Development Plan](#)

Date Registered: 24 October 2023

Drawing Numbers/Scheme

01, 02

Scheme 1

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

Contact: James Armstrong, Planning Officer
E-mail: james.armstrong@edinburgh.gov.uk

Appendix 1

Consultations

No consultations undertaken.

Appendix 2

Application Certification Record

Case Officer

I have assessed the application against the City of Edinburgh Council's Scheme of Delegation (2023) Appendix 6 – Chief Planning Officer and the Statutory Scheme of Delegation (2023) and can confirm the application is suitable to be determined under Local Delegated Decision, decision-making route.

Case Officer: James Armstrong

Date: 5 April 2024

Authorising Officer

To be completed by an officer as authorised by the Chief Planning Officer to determined applications under delegated powers.

I can confirm that I have checked the Report of Handling and agree the recommendation by the case officer.

Authorising Officer (mRTPI): Elaine Campbell

Date: 2 May 2024

Comments for Planning Application 23/06462/FULSTL

Application Summary

Application Number: 23/06462/FULSTL

Address: 1F1 37A St Leonard's Street Edinburgh EH8 9QN

Proposal: Use of flat for short-term let use (Sui Generis) and residential flat (in retrospect). The property is available 12 months a year for letting.

Case Officer: Improvement Team

Customer Details

Name: Mr Robert Connell

Address: 12 Hamilton's Folly Mews Edinburgh

Comment Details

Commenter Type: Neighbour-Residential

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment:Our experience of short-term lets here is that they create excessive noise and general nuisance. People let them out for parties, or to visit Edinburgh short term and keep very late hours, often drunkenly and noisily. These visitors leave rubbish at the tenement doors, park illegally and obstructively, and have no regard for the sleep of working neighbours and their children, and of course no responsibility as they are soon gone. Landlords are absent and hard to contact, and irresponsible.

Further, there is a dire shortage of living accommodation for Edinburgh residents and families, often caused by the number of short term let properties. Please refuse this (and similar) applications.

Comments for Planning Application 23/06462/FULSTL

Application Summary

Application Number: 23/06462/FULSTL

Address: 1F1 37A St Leonard's Street Edinburgh EH8 9QN

Proposal: Use of flat for short-term let use (Sui Generis) and residential flat (in retrospect). The property is available 12 months a year for letting.

Case Officer: Improvement Team

Customer Details

Name: Ms Ellen Kelly

Address: 11 Hamilton's Folly Mews Edinburgh

Comment Details

Commenter Type: Neighbour

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: Nos. 37 and 37a are located within the side of the pend which links St Leonard's Street to Hamiltons Folly Mews. When the flat started being used for short-term lets, as departing renters have regularly left rubbish bags outside the stair, within the pend. Prior to this, rubbish being dumped in the pend had very rarely been an issue in the twenty plus years we have lived here. It has now become a very regular occurrence, particularly after public holidays. Apart from the nuisance value of having to pick up and deposit other people's rubbish bags in the on street bins, there is a more serious issue, in that there is a problem with rats within the local area, and rubbish bags lying in the pend do nothing to help this. Likewise, gulls and foxes, regularly rip open the bags, which usually contain empty take away wrapping and containers. The continuing nuisance represented by the bags only serves to illustrate the unsuitability of tenemental properties for short term lettings.

Comments for Planning Application 23/06462/FULSTL

Application Summary

Application Number: 23/06462/FULSTL

Address: 1F1 37A St Leonard's Street Edinburgh EH8 9QN

Proposal: Use of flat for short-term let use (Sui Generis) and residential flat (in retrospect). The property is available 12 months a year for letting.

Case Officer: Improvement Team

Customer Details

Name: Mr Paul Phillips

Address: 3F3, 27 St Leonard's Street, St Leonards, Edinburgh EH8 9QN

Comment Details

Commenter Type: Neighbour-Residential

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: I object to this application for the following reasons:

- 1) Use of any residential property for an STL reduces the availability of long-term lets and owner-occupier properties, which contributes to the general housing shortfall in Edinburgh and higher rents/house prices.
- 2) In particular, this property is in a tenement which has a shared main door and stair. This will inevitably create regular disruption to the residents at antisocial hours, and reduce the sense of community and safety within the stair.
- 3) Users of STLs are more likely to engage in (even if not always) antisocial behaviour, adding a disruptive element in the area.
- 4) Finally, the Edinburgh City Plan 2030 states that "[p]roposals which would result in the loss of residential dwellings through demolition or a change of use will not be permitted".

Comments for Planning Application 23/06462/FULSTL

Application Summary

Application Number: 23/06462/FULSTL

Address: 1F1 37A St Leonard's Street Edinburgh EH8 9QN

Proposal: Use of flat for short-term let use (Sui Generis) and residential flat (in retrospect). The property is available 12 months a year for letting.

Case Officer: Improvement Team

Customer Details

Name: CC Stephen Rodger Benson

Address: 41 Clerk Street 1F2 Edinburgh

Comment Details

Commenter Type: Community Council

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: We at the Southside Community Council object to this application to become a short term let.

Edinburgh's housing is already under significant pressure, with demand being quite high, driving up both rental and purchase prices for residents, and making it harder to find suitable accommodation in the first place (including students). Short Term Lets exacerbating this by removing properties from the private rental market or diverting them from being sold on. Even if an application is retrospective, and a location has already been operating as an STL, it would be preferable to return flats to normal residential use. This property, for example, could work as a small flat for a single a couple or a small, and is in a relatively central location with good transport connections, very convenient for working in many parts of the city, which could be perfect for young people who have just started working.

Short term lets also put extra pressure on local services. With the new groups of visitors arriving and departing, sometimes in rapid succession after each other, this often produces notably extra rubbish as things are cleared out after each group, sometimes contributing to overflowing bins, particularly in high density residential areas such as where this flat is.

STLs often cause disruption for neighbours. The arrivals and departures of visitors with their luggage, sometimes at anti-social hours, can be disturbing for neighbours. Some STLs are even marketed specifically as "party flats", but even if they are not, visitors are sometimes less careful about being considerate for neighbours, and given the turnover in visitors it increases the chance of this happening eventually, and any resolution of a problem has no guarantee of lasting beyond an individual stay. This is heightened with STLs on communal stairs, like this application, due to

the proximity of flats to each other, people clattering up and down stairs, and adding complications such as visitors buzzing neighbours to let them in when they first arrive or if they forget their keys, whether accidentally or deliberately. It is our understanding that the planning policy is to reject applications on communal stairs.

A lack of long term residents also undermines the sense of a local community. Communal stairs exist where many, or even most, the flats are STL. This makes it harder to get to know and cooperate with residents on the stair, and at extreme levels can even be actively isolating. People find it harder to find accommodation in their local area, and can even feel forced out by the disruption or the isolation of having STL around them. As the Community Council, we are aware that the Southside already has difficulties with community involvement as a result of the comparatively transient population, and this trend should not be reinforced by approving more Short Term Lets.